

AMENDED IN SENATE MARCH 27, 2006

**SENATE BILL**

**No. 1257**

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**Introduced by ~~Senator Battin~~ Senators Morrow and Battin**

February 8, 2006

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An act to ~~amend Section 68665 of the Government Code, and Section 1508 of the Penal Code~~, *add Section 190.65 to the Penal Code*, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1257, as amended, ~~Battin~~ Morrow. Criminal procedure: ~~writs appeals: capital cases.~~

*Existing law provides procedures for the expeditious imposition of capital sentences.*

*This bill would require the expeditious handling of appeals in capital cases. In order to expedite appeals in capital cases, this bill would require appellate counsel to be appointed for the defendant within one year of the specified date and for the record on appeal to be certified and transmitted to the Supreme Court within one year after appellate counsel is appointed. This bill would also require appellant's opening brief to be filed within one year after the record is transmitted to the Supreme Court, and require attorneys who accept appointments before district courts of appeal to be available for appointment by the Supreme Court on capital cases.*

~~Existing law requires the Judicial Council and the Supreme Court to adopt competency standards for the appointment of counsel in death penalty direct appeals and habeas corpus proceedings.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Existing law allows a writ of habeas corpus to be made returnable to various courts, as specified.

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 190.65 is added to the Penal Code, to  
2     read:

3     190.65. (a) The Legislature declares that appeals in all  
4     capital cases should be decided expeditiously.

5     (b) Therefore, in all cases which a sentence of death has been  
6     imposed on or after July 1, 2006, counsel for the defendant on  
7     appeal shall be appointed within one year of the pronouncement  
8     of judgment. In those cases in which a sentence of death was  
9     pronounced prior to July 1, 2006, and no counsel has been  
10    appointed for the defendant, an attorney shall be appointed  
11    within one year of the effective date of this legislation.

12    (c) The record on appeal shall be certified and transmitted to  
13    the Supreme Court within one year after the appointment of  
14    counsel for the defendant.

15    (d) The appellant's Opening Brief on appeal shall be filed  
16    within one year after the record is certified and transmitted to the  
17    Supreme Court.

18    (e) Any attorney who accepts appointments to represent  
19    indigent appellants before any District Court of Appeal shall be  
20    available to be appointed as appellate counsel before the  
21    Supreme Court in capital cases.

22    ~~SECTION 1. Section 68665 of the Government Code is~~  
23    ~~amended to read:~~

24    ~~68665. The Judicial Council and the Supreme Court shall~~  
25    ~~adopt, by rule of court, binding and mandatory competency~~  
26    ~~standards for the appointment of counsel in death penalty direct~~  
27    ~~appeals and writ of habeas corpus proceedings.~~

28    ~~SEC. 2. Section 1508 of the Penal Code is amended to read:~~

29    ~~1508. (a) A writ of habeas corpus issued by the Supreme~~  
30    ~~Court or a judge thereof may be made returnable before the~~

1 ~~issuing judge or his or her court, before any court of appeal or~~  
2 ~~judge thereof, or before any superior court or judge thereof.~~

3 ~~(b) A writ of habeas corpus issued by a court of appeal or a~~  
4 ~~judge thereof may be made returnable before the issuing judge or~~  
5 ~~his or her court or before any superior court or judge thereof~~  
6 ~~located in that appellate district.~~

7 ~~(c) A writ of habeas corpus issued by a superior court or a~~  
8 ~~judge thereof may be made returnable before the issuing judge or~~  
9 ~~his or her court.~~

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